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ABSTRACT

The booklet is intended to familiarize parents of handicapped children in Kentucky with state and federal law regarding the education of handicapped students. Implications of the laws for types of services and age ranges to be served are discussed. Parents' role in the individualized education program (IEP) process is traced from referral, evaluation, program planning, and implementation and review. The hearing and appeal process is described, as are parental rights regarding confidentiality of records. Provisions for lodging complaints with the State Department of Education are described. (CL)

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Bureau of Education for Exceptional Children
Department of Education
Frankfort, Kentucky

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INTRODUCTION

This is a booklet about how parents of children with special needs can work with schools in seeing that exceptional (handicapped) children get an education which meets their needs. Services required by law are important for parents to know. However, no law will automatically give appropriate services. It is still going to take hard work and cooperation between parents and schools to make sure that exceptional children get the education they need. Parents have a responsibility to work with schools. They must know how to use opportunities given to them and their children. The purpose of this booklet is to help parents do this.

This is what you will find in this booklet:

1. Information about federal and state laws on the education of exceptional children and parents' rights guaranteed in the laws.

2. A description of the steps used by you and the school in planning and reviewing Individualized Education Programs (the special program developed for your child). Checklists are included at the end of the booklet which you can use in working with the school.

3. Meanings of words and phrases about special education.

FEDERAL & STATE LAW

Some very important laws have been passed by the state and federal governments. These laws strengthen the rights of exceptional children--and their parents. The following material outlines the major areas covered by Section 504, P.L. 94-142 and the state regulations that apply to the education of exceptional children. The two federal laws are:

Public Law 94-142, The Education for All Handicapped Children Act of 1975.

Section 504 of Public Law 93-112, The Rehabilitation Act of 1973.

(Congress refers to its laws as Public Laws. This is abbreviated as P.L. in this booklet.)

The regulations of Section 504 of the Rehabilitation Act went into effect in April of 1977 and deal with the rights of all handicapped people. The regulations guarantee equal opportunities for handicapped persons in community life. In education this means:

- All handicapped children must be provided with publicly-supported schooling;
- Schools (including colleges, universities and vocational schools) must be accessible to all;
- And education must meet individual needs.

Section 504 forbids any agency or organization that gets federal funds from discriminating against handicapped individuals of all ages.

The regulations of P.L. 94-142, The Education of All Handicapped Children Act, are comprehensive. It is the purpose of this Act and state laws and regulations to make sure that all exceptional children have available to them a free appropriate public education.

The term "Free Appropriate Public Education" refers to special education and related services.

In the law, special education is "specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child" (P.L. 94-142, 121a.14). This includes:

- classroom instruction
- instruction in physical education
- home instruction and
- instruction in hospitals and residential facilities

It is important that you understand what services P.L. 94-142 deals with. It is concerned only with special education and related services. It does not deal with all parts of a child's education--just those that must be specially designed. The thing that makes special education special is that it meets the unique needs of a handicapped child. Where your child can benefit from regular education, the law supports the goals of regular education and does not cover these services. For example, a handicapped child may be able to do okay in regular education for some things. But when specially designed instruction is needed, this instruction is to be provided in keeping with P.L. 94-142 and state requirements

In the law, "related services" are the additional things that the child may need so that he or she can benefit from special education. Related services are:

- transportation
- speech therapy
- audiology
- psychological services
- early identification and assessment
- physical and occupational therapy
- recreation
- medical evaluations
- school health services
- social work services in schools
- parent counseling and training

Age Range for Services

P.L. 94-142 requires services for all exceptional children according to certain ages. A free appropriate public education must be made available to all exceptional children ages 6 through 17.

P.L. 94-142 says that states should go by their own laws for the age group of 3 through 5 and 18 through 21. In Kentucky, the requirements for services for all exceptional children are:

Ages	Provisions	Funding Source
6 through 15 years	Compulsory attendance for all children including exceptional children.	State, Federal, Local
5, 16 and 17 years	Services must be made available.	State, Federal, Local
18 through 20 years	Services may be made available. This is an option for the school district except under specific conditions.	State, Federal, Local
3, 4, and 21 years	Services may be made available. This is an option for the school district except under specific conditions.	Federal and Local

Therefore, all children ages 5 (by October 1st of a given school year) through 17 must have services available to them. This includes children who are of compulsory school age (6 years up to the 16th birthday). It also includes children ages 5 (by October 1st of a given school year), 16 and 17 for whom services must be made available if they are requested by the child and/or the child's family.

In addition, Kentucky fully supports working toward the goal of providing full educational opportunity to all exceptional children from birth through age twenty-one.

IEP PROCESS

State and federal requirements list specific steps to insure the rights of you and your child. These include making sure that you have a chance to take part in the major decisions to be made about your child's education. You will want to know how these steps are carried out by the school so that you can be fully involved in your child's education.

These steps are part of a process which is based on providing services to exceptional children through Individual Education Programs (IEPs). An IEP is a plan which is written especially for your child. You are always given a chance to work with the school in planning and reviewing this plan. A committee known as an Admissions and Release Committee plans and reviews this plan. You are a member of this committee. This is because P.L. 94-142 requires that the program for each child be developed by a group of people, not just one person. The Admissions and Release Committee includes people from the school district, you, and your child, if appropriate, and other people you or the school want included.

The main steps in carrying out this process include:

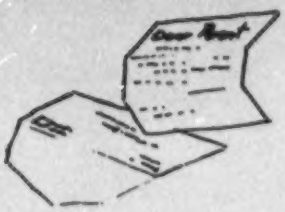
(1) identifying or referring your child as maybe needing special education;

(2) evaluating your child to find out if he or she needs special services;

(3) planning an IEP for your child; and

(4) providing the special education and related services to your child that are listed on the IEP, reviewing your child's IEP and the services being provided to your child, and making changes needed to meet your child's needs.

All of these steps are carried out in a way that is fair to you, your child, and the school. Each step must be done in order. Step one must be done before step two can begin and so on.



Throughout this process, the school will keep you informed. They will do this by giving you written notice any time they plan to identify, evaluate or place your child because of your child's handicap or suspected handicap. If the school wants to change any of these things or if you ask for something to be done and the school says no to your request, you will also be notified in writing. You may get this notice through the mail or while you are meeting with the school.

This notice will tell what the school is wanting to do, the reasons why the school wants to do something or why the school says no to your request. It will also give you any other information which is important. The notice will include a full explanation of your rights. It will tell you actions (if any) the school thought about but decided against because the school felt that these were not best for your child. It will tell you about any information such as tests and reports which the school used to make its decision.

It's very important that you understand what the school is saying in this notice. If necessary, the school will talk with you or provide an interpreter to make sure that you understand this notice. Some notices may ask for your written permission to do things. You will receive these when the school wants to evaluate your child before a decision can be made about placing your child in a special education program for the first time. They will also ask for your written permission before they put your child in special education for the first time. More information about the times the school will notify you is in the following pages.

In carrying out these steps, you and the school may disagree about the education of your child. Hopefully, such disagreements can be taken care of through informal means. However, if disagreements cannot be solved, both you and the school have the right to ask for an Impartial Due Process Hearing to settle the disagreement. This hearing and other similar rights are described later in this booklet.

Checklists are included at the end of this booklet to help you take part in your child's education as you and your school move through these steps. These are the IEP Process Checklist in Appendix A (page 25) and the Hearing and Appeal Checklist in Appendix B (page 31).

Step 1: Referral

Step one is referral. Here, someone involved with your child--such as you, a teacher, or a counselor--prepares a written statement about your child telling why your child might need special education and related services. You have important rights here.

If your child is in school and you want to make a referral, you should contact your child's principal. If your child is not in school, you should contact your school district superintendent or special education supervisor.

If the school starts the process, the school will tell you in writing (give you notice) that your child was referred by someone. This is to let you know that the school is thinking about special services for your child and the reasons for this referral. They will tell you about any tests they are thinking about giving your child. The school will ask for your permission if they want to evaluate your child for the first time.

So at the beginning, the school will:

- contact you in writing,
- let you know what they plan to do and why,
- give you a full explanation of your rights, and
- ask you to give written permission to evaluate your child if this is the first time your child has been referred for special education services.

Your responsibilities are to make sure you understand what they are suggesting and that you carefully decide about whether you want your child evaluated. It is your <u>right</u> to say yes or no.

You may change your mind at any time. If you do not give permission, your child's basic right to go to school will not be affected by your refusal. If the school disagrees with you, the school has a right to ask for an Impartial Due Process Hearing to show why they feel your child should be evaluated.

Step 2: Evaluation

You and the school have agreed to evaluate or test your child to see if he or she may need special services. The school will do this evaluation or have it done. A team of people will be chosen to evaluate your child's needs and abilities. They will use different methods such as testing, observing your child's behavior, looking at your child's school work, looking at school records, and talking to you or the teacher. All of these steps are set up to be certain that this evaluation if fair.

The law says that:

- The evaluation must be done by a team or group of people who are trained in different special areas. This is called a "multidisciplinary" evaluation.
- At least one of those people must have special training in the type of handicap your child is suspected to have.
- The people who evaluate your child must be qualified. They must use valid tests and give them according to the instructions.
- Several different tests are supposed to be used, not just one intelligence (IQ) test.
- Any tests used must be given in the language your child uses and in a way that the child can best answer. This procedure is called "non-discriminatory testing."

In short, the law requires that the evaluation be done so that it gives a fair picture of your child.

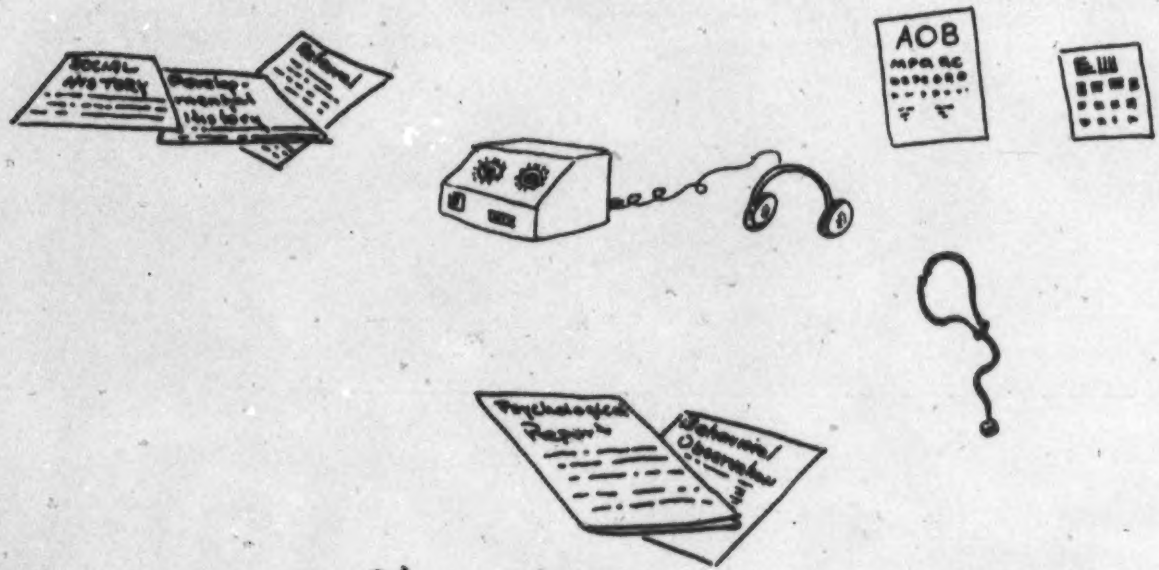
Although the law requires a fair evaluation, it does not say what must be found in the evaluation to determine if the child is handicapped and needs special services. Kentucky has developed regulations to be used in making these decisions. All local districts follow these state requirements as well as other federal and state requirements for a fair evaluation.

When this information is ready, the school will ask you to talk with them about the results of the evaluation. This meeting is called an Admissions and Release Committee Meeting. One of the ways you can be ready for this meeting is to go over your child's school records beforehand. There are rules about your child's records. A complete description of these rules is in this booklet on page 19.

The results of the evaluation will be discussed at the meeting. The people at the meeting are the committee responsible for your child's program. YOU ARE ALWAYS A MEMBER OF THIS COMMITTEE. The committee will listen to all reports including information that you think is important.

The committee will decide if your child needs special services. If so, the committee then talks about a program for your child to meet his or her special needs. If the committee decides that your child does not need special education and related services--that is, your child is not eligible--you will receive a written explanation of this decision and suggestions for remedial actions (ways your child can be helped).

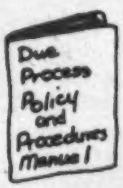
During the evaluation step you have the right to hear the results and to question them if you do not agree. You also have the responsibility to go through your child's records and check on the results to be sure the information about your child is correct and fair. If you cannot come to the meeting, you can talk over the phone or have another conference. The school will do its best to let you take part in all decisions about your child.



There may be a time when you do not agree with an evaluation provided by the school--that is, you don't think they gave the right tests or reached the right conclusions. If this happens, you may have an independent educational evaluation. An "independent evaluation" means that your child will be tested by a trained and qualified person. This person will not be an employee of the school your child attends.

If you do not agree with the school's evaluation, you can write to the local school district superintendent before getting the independent evaluation and ask that the evaluation be at public expense. The school then has two choices. If it agrees with your request, it will see that the independent evaluation is at no cost to you. It must also make sure that the evaluation is done in a way that follows the same rules that the school follows when it does evaluations. If you ask, it will help arrange for this evaluation. It is for these reasons that you must write to the school and tell them beforehand if you want the school to see that the independent evaluation you want is at no cost to you.

If the school disagrees with your request for an independent evaluation, it will ask for an Impartial Due Process Hearing to show why its evaluation is right...in other words, why a "second opinion" is not needed. If the hearing officer decides that the school's evaluation is appropriate (a good one) you still have the right to get another evaluation, but not at public expense. If you ask, the school will tell you where you can get an independent evaluation. If you get an independent evaluation, it will be considered by the school in any decisions made about your child's education. It can be presented as evidence in an impartial due process hearing. If an impartial due process hearing is called on this or any other matter about your child's education and an independent evaluation is requested by the hearing officer, the evaluation will be at public expense.



Step 3: Program Planning

No later than 30 days after the committee has decided that your child is handicapped and needs special services, the committee, with you as a member, develops a written Individualized Education Program (IEP) for your child. Usually the Admissions and Release Committee will review the evaluation material and develop the IEP at one meeting. Sometimes it may be necessary to have more than one meeting.

The term "Individualized Education Program" means some very important things for you as parents.

The IEP is a written program. It tells about what services your child is supposed to get before they start. The school checks regularly to see that these services happen. You should also check it regularly.

The IEP covers the parts of your child's education that require special education and related services. It covers just those parts that must be specially designed to meet your child's special needs.

The IEP is individualized for your child. It tells about your child's needs. It includes the services that will be given to meet those needs. It does not necessarily mean that your child will receive one-to-one instruction. It does mean that the instruction will focus on your child's special needs.

P.L. 94-142 says what the written plan must have. The IEP for your child will include statements about:

- your child's present level of educational performance (what your child can and cannot do),
- goals and objectives for your child for the year (what your child is going to be working on during the coming year),
- the specific special education and related services to be provided to your child to meet those goals and objectives (what the school is going to do to make sure your child gets what he or she needs),

- when services will start and how long they will last,
- the extent to which your child will participate in the regular education program (how much your child will be in school classes and activities with children who are not handicapped),
- appropriate ways to check the progress your child makes on the objectives (how the school will find out if your child is or is not doing okay and how this will be measured),
- a schedule for deciding, at least once a year, whether objectives are being met (when the school is going to check on your child's progress).

The goals indicate what is hoped to be accomplished by providing special services. The objectives are specific statements for each goal. The objectives will be used to measure progress during the year.

After setting educational goals and objectives, the committee decides what services will best meet your child's needs. Here the committee will consider a number of things. It will carefully review and document all of the evaluation information on the child. It will also consider all of the possible placement alternatives or choices. That is, it will decide where and how to serve your child. This could include putting your child in:

(1) a regular education class with additional services such as a teacher aide, special equipment or materials; part-time instruction in a special education resource room; a regular class with a specialist who comes to work with your child; and so on;

(2) a special class taught by a special education teacher at the school your child attends (your child may spend all or part of the school day in the special class);

(3) a special school which has only exceptional children; or

(4) a school program at home or a school program in a hospital or residential program.

Your child will get special education and related services in a setting (placement) based on your child's IEP. The committee will consider educating your child as much as possible in a place where your child will be with children who are not handicapped but where your child will still get quality services to meet his or her needs. The right type of placement for a child will depend on a particular child's needs. That is why the committee will look at many placement alternatives before choosing the one that is best for your child. As a result, some exceptional children will be placed in a regular education class all of the day. Other children may need to spend all day with a special education teacher, and so on. This consideration is called the "Least Restrictive Environment." It includes both classroom instruction and other school activities. As much as possible your child will be with children who are not handicapped for meals, recess, trips, sports, and other school activities. The Admissions and Release Committee, with you as a member, will consider all of these conditions in making the placement decision on the IEP.

The **KEY** questions in determining the placement of your child are:

WHAT DOES YOUR CHILD NEED?

WHERE AND HOW CAN YOUR CHILD LEARN BEST?

This may mean providing your child with services which the school already has. If the services your child needs are not available, the school will make arrangements to see that they are provided to your child.

After the Admissions and Release Committee has developed the IEP and made a placement recommendation, the school will provide you a written notice about the proposed placement. The notice will tell what they are proposing and why. It will also include a full explanation of your rights. You may get this notice at the time of the meeting or it may be sent to you through the mail. If the proposal is for your child to get special education for the first time, the school will ask for your written permission. It is your right to say yes or no. You may change your mind at any time. If you do not give your permission, your child's basic right to go to school will not be affected by your refusal. However, the school has the right to ask for an impartial due process hearing to show why the proposed placement is needed so that your child can get the education he or she needs.

Your responsibilities in this step include coming to the meeting, giving your ideas on goals, objectives and placement (what services your child needs), and asking questions about things you are not sure of. You are responsible for making decisions that are best for your child. Again, if you cannot come to the meeting, you can still take part through phone calls and other means.

Step 4: Implementation and Review

Once the decision about placement is made based on the IEP, services will begin. A specific person is made responsible for making sure that each objective is carried out. Each person will keep records on how your child is doing during the year. These records are used during the year as well as at the time of the annual review of the IEP. These records will show that the services were provided and how well your child did.

If at any time you or others on the committee are concerned about the placement, you may ask the Admissions and Release Committee to do a review. In this case, a meeting will be held to decide if changes need to be made. An Admissions and Release Committee meeting will be held <u>at least once a year</u> to review the IEP and placement. A review may be held more often if requested by you or the people in the school who work with your child. At that time the Admissions and Release Committee may decide to:

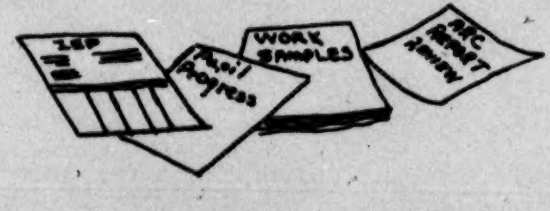
(1) continue the placement (keep your child in the same special program), or

(2) change the placement, or

(3) decide that services are no longer needed.

You are invited to attend this yearly meeting as well as any other meetings.

In addition, if services are continued, your child will be completely re-evaluated at least once every three years. You or the school can ask for re-evaluation sooner than that. You have the right to attend all review meetings. You may also request more frequent meetings and a re-evaluation of your child. You are also responsible for checking your child's progress to see if you believe the services are helping your child.



In the back of this booklet (Appendix A) is an <u>IEP Process Checklist</u> that you may use as a guide when you are working with your school.

HEARING AND APPEAL PROCESS

There may be a time when you and the school don't agree even though all of you tried to come up with a solution together. If this happens, tell your child's principal, the special education supervisor or the superintendent about your concern. A review by a school district level Admissions and Release Committee will be arranged. You or the school can ask for a hearing when differences can't be worked out in this review. This hearing is called an "Impartial Due Process Hearing" because it is held by someone who will listen to both sides fairly. The cost of this hearing is paid for by the local school district.

If you believe you must ask for a hearing to solve a problem, you may need help. The school district will tell you about free or low-cost legal or other services in your area if you ask them about it or if you request a hearing. If you want to request a hearing, you will need to write to:

Assistant Superintendent
Bureau of Education for Exceptional Children
Capital Plaza Tower
Frankfort, Kentucky 40601

The Bureau of Education for Exceptional Children will assign a hearing officer to hold the hearing. This person or hearing officer is not employed by the school or any other agency involved in the education or care of your child. Hearing officers do not have any personal or professional interest which would make them hold the hearing unfairly. Hearing officers are chosen and trained by the State to hold these hearings. Your local school district keeps a list of these hearing officers and their qualifications. You can ask to see this list.

You and the school have rights in a hearing. These include:

- having a lawyer and people with special knowledge about the problems of handicapped children come to the hearing and give advice to you or your school,
- being able to give evidence, question and make witnesses come to the hearing,
- not letting evidence be given at the hearing which you or the school did not know about at least five days before the hearing,

- getting a written or recorded statement of exactly what was said at the hearing, and

- getting a copy of the hearing officer's written summary of facts and the decision.

The hearing will be held at a time and place convenient for you. You will be notified ahead of time. You also have the right to bring your child to the hearing if you wish. You can have the hearing open to the public.

No later than 45 days after the Bureau of Education for Exceptional Children gets a request for a hearing, the hearing officer will make a decision and mail it to you and the school by certified mail. The hearing officer can make this a longer time if you or the school ask for it.

The decision made in the hearing is final unless you or the school appeal the decision. In this case, there can be an impartial review by the Department of Education Exceptional Children Appeals Board. If you want to ask for an appeal, you will need to send a written request no later than 14 days after you get the hearing officer's decision. Copies of the appeal must be sent to the school and to:

Exceptional Children Appeals Board
Kentucky Department of Education
Frankfort, Kentucky 40601

This three-member Exceptional Children Appeals Board will:

- look at all of the hearing record,

- make sure that the hearing was done the right way,

- ask for more evidence, if necessary. If the Appeals Board needs to hold a hearing to get more evidence, then the rights explained before would apply,

- give both you and the school a chance to explain your side,

- make an independent decision,

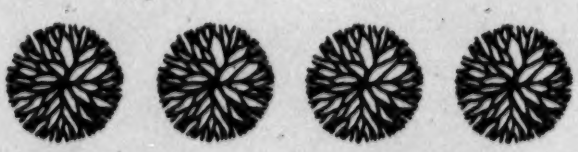
- mail a copy of the decision to you, the school and the Bureau of Education for Exceptional Children. This will be mailed within 30 days of the time that the appeal was requested unless an extension of this time period is granted by the Appeals Board.

In order to make sure that decisions of the Impartial Due Process Hearing officer and Exceptional Children Appeals Board are carried out Bureau of Education for Exceptional Children staff will visit the school district. A report of this visit will be sent to you and the school.

The Exceptional Children Appeals Board decision is final unless you or the school are not satisfied with the decision. There is the possibility of bringing a civil action suit--that is, going to court. The intent of P.L. 94-142 is to settle disagreements in the Admissions and Release Committee if at all possible. Also, the hearing and appeal process is intended to settle disagreements out of court. P.L. 94-142 does not take away your right to go to court if you or the school think that this is what is needed.

During the time that all of this is taking place, your child will stay where he or she is in school unless you and the school agree otherwise. If the disagreement is about your child going to school for the first time, then your child, with your permission, will be placed in a public school program until the disagreement is settled.

If you would like to know more about the hearing and appeals process, you may find it helpful to read the Due Process Policy and Procedure Manual. You can get a copy of this manual by contacting your school or by writing to the Bureau of Education for Exceptional Children, Kentucky Department of Education, Capital Plaza Tower, Frankfort, Kentucky 40601.



SCHOOL RECORDS

An important source of information for you is your child's school record. You have rights concerning these records. These rights are based on two federal laws. The first law is the Family Education Rights and Privacy Act of 1974. This law applies to the records of all school children including children who are handicapped and those who are not handicapped. The second law is the Education of All Handicapped Children Act of 1975. This law is also known as Public Law 94-142.

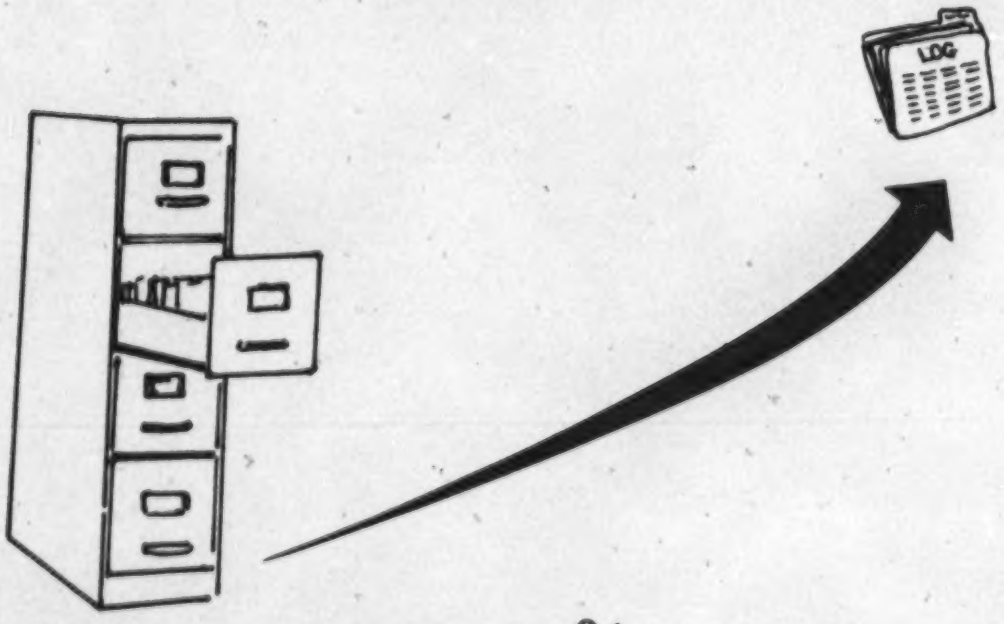
The school will tell you once a year about your right to see your child's record. They may do this in a number of ways. They might publish an announcement in the local paper. For example, schools in Kentucky are always trying to find handicapped children who are not in school. At certain times of the year, newspapers all over the state have notices about what to do to let your school know about handicapped children. The newspaper will explain who handicapped children are. It will also say that any information about a child will be kept private. It will describe the rights of parents and children concerning school records. Other ways schools may tell you are: sending you a letter or other information through the mail, sending information home with your child, and so on.

You have the right to ask for and get a list of the types of school records kept on your child. The school will give you information on where the records are kept, how you can see them and how you can get a copy of them. If you would like to see or get a copy of your child's record, you should ask the local school district. If you want a copy of the records, the school may charge a small fee for making the copies of the records as long as this fee does not keep you from seeing the records. The school will not charge you for getting the records out of the files. The school will answer your request to see the records in no more than 45 days. You can see your child's record at any time including before an Admissions and Release Committee meeting and before an Impartial Due Process Hearing. If there is some reason why you cannot get to the school to see the records, the school will send you a copy if you ask. They will do this if this is the only way that you will be able to see the records. It is important that you read your child's record and understand the information in it. To help you do this, the school has someone who can explain your child's records to you. You can also have someone else look at the records for you.

The school has many ways to make sure that your child's records are kept private. The school has someone who takes care of records and makes sure that all rules for records are followed. All school employees who collect or use school records get training in the rules about school records. The school also keeps a list of those employees who can use the records.

The school makes sure that parents see only that information about their own child. They can assume that you have the legal right as a parent to see your child's records unless they have been told that you do not have this right because of some legal action such as a divorce decree which keeps you from doing this.

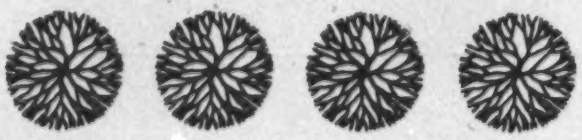
The school will get your written permission before your child's records are sent out of the school district or before your child's records are used for any reasons other than providing special education and related services. The school can give records to others without your permission if there are people and agencies that need your child's records to help provide an education to your child. An example of this is when you move to a new school district. The school can send your child's records to another local school district without your permission. If the school sends records to others without your permission, they will follow written rules about this. These rules will describe those people and agencies that they will send information to and why these people and agencies need the information to help with the education of your child. You can ask to see these rules.



The school will tell you when they don't need your child's records anymore. The school will destroy the records if you ask them to do so. They can keep certain basic information about your child for as long as they think it is needed. This information is called directory information. Directory information includes things such as:

Your Child's Name
Address
Telephone Number
Date of Birth (Birthday)
Place of Birth
Major Field of Study
Participation in Activities and Sports
Weight and height as a member of an athletic team
Date of School Attendance
Degrees and Awards Received
Names of Schools Recently Attended

There may be a time when you think that something in your child's record is wrong or misleading. If this happens, you can ask the school to change the records. The school has two choices. They can do this in a reasonable period of time or they can refuse to change the records. If the school refuses, they will tell you. They will also tell you that you have a right to a hearing on the records. The hearing is a local school district hearing and should not be confused with an Impartial Due Process Hearing. If you request a hearing on your child's record, the school will hold one. The hearing may be held by any school official who would not be affected by the results of the hearing. If the hearing is decided in your favor, the school will change the records. They will write you and tell you about this change. If the hearing official rules that the records are okay, the records will not have to be changed, but you can still add your own statement to the record explaining your feelings about the part that you think is wrong or misleading. Your statement will be kept as long as the part you disagree with is kept. If that part of the record is shown or sent to anyone, your statement will also be included.



SERVICES

STATE DEPARTMENT OF EDUCATION

This booklet has covered the services that are provided through P.L. 94-142 and your rights in taking part in decisions about your child. The Kentucky Department of Education, specifically, the Bureau of Education for Exceptional Children has many people and materials available to help you and your local school district. The Bureau of Education for Exceptional Children is ready to help you in any way it can to make certain your child receives a free appropriate public education.

In addition to the procedures set up to solve problems for individual children, the Bureau of Education for Exceptional Children also has a set of procedures it follows to handle complaints it receives about special education programs. The complaint procedure is a set of steps the State takes to look into concerns about how a local school district or the State is carrying out the requirements of federal laws or regulations such as P.L. 94-142.

If you believe that the state or a local school district is not following federal laws and regulations you may send a complaint to the Bureau of Education for Exceptional Children. This complaint must be in writing. This complaint must have two things:

(1) a statement that the state or local school district has violated a requirement of federal law or regulation (such as P.L. 94-142) that applies to the program.

(2) a statement that tells the facts on which the complaint is based.

Complaints will be investigated by the Bureau of Education for Exceptional Children. The complaint will be resolved no later than 60 days after the complaint is received unless there are special circumstances which require an extension of this time period. The state will report its findings to you in writing.

If you have a concern about a special education program write to:

Assistant Superintendent
Bureau of Education for Exceptional Children
Capital Plaza Tower
Frankfort, KY 40601
502/564-2067

SUMMARY

This booklet has given you much information about how you can work with the schools. You have a very important role to play in the education of your child by:

- working with the school
- understanding your rights and responsibilities
- attending meetings and talking with the school
- watching your child's progress
- reading your child's records and keeping careful records for yourself at home
- asking questions anytime that you need something explained or need information.

The school will keep you informed. You can help the school help your child learn.

APPENDIX A

IEP PROCESS CHECKLIST

STEP 1: REFERRAL

➡ The child is referred as maybe needing special services

- The referral must be in written form
- The referral may be made by anyone involved with the child, (parents, teacher, etc.).

➡ The parents are notified of the referral

- The notification will be in writing and clear to the parents.
- The notification may also involve a phone call or meeting.
- The parents will receive a written list of their rights in all procedures.

STEP 2: EVALUATION

➡ The child's records are reviewed for any information already available.

- The committee chairperson organizes this review.

➡ The Committee chairperson decides if more information is needed so that possible services can be discussed and if so, what information is needed.

- If enough information is already available, a committee meeting will be held to discuss the evaluation reports. If more information is needed, continue the following steps in the evaluation process.

If more information is needed, the parents are told in writing (given notice) about the school's plans. Giving notice includes:

➢ providing a full explanation of parents' rights
➢ telling what the school wants to do and why
➢ telling what things the school thought about but decided against and why
➢ telling about any tests or reports the school used to make its decision
➢ any other important information

If the school is wanting to evaluate the child before maybe placing the child in special education for the first time (preplacement evaluation) they will ask for the parents written permission. They will not test the child unless they get the parents' permission in writing. If the parents refuse permission there is further discussion and possible review (SEE HEARING/APPEAL PROCESS - Page 31).

If the school wants to evaluate the child at any other time (other than preplacement evaluation), they will tell the parents in writing (give notice) but they do not have to get the parents written permission.

➡ The evaluation is conducted.

- The evaluation team will be multidisciplinary (have different professional training).
- The evaluation will be non-discriminatory (not biased by race, culture, socio-economic status, or impaired sensory, manual or speaking skills).
- The evaluation services will be properly administered by qualified personnel.
- The evaluation will not cost the parents anything.

➡ A committee meeting is held to discuss the evaluation reports (with the parents and the rest of the committee).

- The parents are invited to attend.
- If the parents cannot attend they can communicate by phone or other means about the results of the evaluation.
- The parents may take part as much as they want in the discussion.

➡ The parents decide whether they believe the evaluation reports are appropriate (right, good, correct).

- If the parents accept the reports, continue the process.
- If parents do NOT accept the reports, they may have an independent evaluation conducted by someone other than the school (see explanation on page 10 in booklet); then continue the process.

STEP 3: PROGRAM PLANNING

➡ A committee meeting is held to discuss appropriate services based on all available information.

- This meeting may be a continuation of the meeting discussing the evaluation.
- The parents are invited to attend.
- If parents cannot attend, they can communicate by phone or other means about appropriate services.

➡ The committee discusses appropriate goals and objectives for the child.

- The evaluation information is used to determine the child's strengths and weaknesses.
- The parents may add information they have and may participate fully in the discussion.

➡ The committee decides whether the child is handicapped and needs special education and related services.

- If the child is handicapped and needs special services, the committee will discuss what services would be appropriate.
- If the child does NOT need services, the parents will receive a written explanation for this decision and what can be done to help the child.

➡
- If the parents agree that services would NOT be right, this is the END OF PROCESS.
- If the parents disagree and believe services would be appropriate, there is further discussion and possible review (SEE HEARING/ APPEAL PROCESS - Page 31).

➡ Based on the goals and objectives, the committee discusses what services would be appropriate.

- Consideration is given to how much and what kind of services are needed.
- Priority is given to services that will involve the children in regular education as much as possible (Least Restrictive Environment).
- The Individualized Education Program (IEP) is written.

-The IEP must contain:

- the child's present level of performance,
- yearly goals for the child with short-term objectives,
- the specific special education and related services to meet those goals and objectives,
- the target dates for starting those services and their duration,
- the extent to which the child will participate in the regular education program,
- appropriate ways to evaluate progress on the goals and objectives.
- a schedule for determining, at least once a year, whether the objectives are being met.

➢ The parent may request a copy of the IEP.
➢ A recommendation is made about placing the child in special education.

The parents are told in writing (given notice) about the recommended placement. This is done even when parents attend the committee meeting. The notice may be given at the meeting or sent through the mail. Giving notice includes:

➢ providing a full explanation of parents' rights
➢ telling what the school wants to do and why
➢ telling what things the school thought about but decided against and why
➢ telling about any tests or reports the school used to make its decision
➢ any other important information.

If the school (committee recommendation with parents as a member) is wanting to place your child in special education for the first time (initial placement), they will ask for the parents' written permission. They will not place the child in special education for the first time unless they get the parents' permission in writing (If the parents refuse permission (say no) there is further discussion and possible review (SEE HEARING/APPEAL PROCESS - Page 31). If the school wants to place the child at any other time after that first special education placement (for example, change the placement in some way), they will tell the parents in writing (give notice) but they do not have to get the parents' written permission.

STEP 4: IMPLEMENTATION

➡ The services in the Individualized Education Program (IEP) begin.

-The committee assigns a person(s) to be responsible for carrying out each objective.
-The assigned person provides services to meet the objectives and maintains records of the child's progress.

➡ The services are evaluated by the committee to see whether the child is meeting the goals and objectives.

-The committee meets at least once a year (described in STEP 3: PROGRAM PLANNING - Pages 27-28).
-The committee may meet more often than once a year.
-The parents may request a meeting at any time.
-The parents are invited to all committee meetings and may use review procedures at any point (SEE HEARING/APPEAL PROCEDURES - Page 31).

➡ The committee decides whether any changes in services are needed.

-If there are to be no changes in placement, services are continued based on the IEP.
-If there are any recommended changes in placement, the parents are notified in writing.

➡ As long as services are continued (STEPS 3-4), the child is thoroughly evaluated again once every 3 years.

-The school will contact the parents (give written notice) at this time. This notice will include:

- ➤ providing a full explanation of parents' rights
- ➤ telling what the school wants to do and why
- ➤ telling what things the school thought about but decided against and why
- ➤ telling about any tests or reports the school used to make its decision
- ➤ any other important information

-The parent or school personnel may request an evaluation before the 3 years are up.

➡ Services continue until the committee decides they are no longer needed.

-The decision is made at a committe meeting as described in STEP 3: PROGRAM PLANNING - Pages 27-28.

APPENDIX B

HEARING PROCESS CHECKLIST

REVIEW WITHIN THE SCHOOL DISTRICT

STEP 1: The parents are concerned about any issue in the identification, location, evaluation and/or placement of their child.

-This concern may be about a committee decision with which the parents disagree (School-Based Admissions and Release Committee) or to any other problem.
-If the parents raise an issue, the steps outlined below will be followed.

STEP 2: The parents discuss the problem with their committee and/or committee chairperson.

-The Admissions and Release Committee is designed to handle these problems.
-If possible, the problem is solved by the committee (END OF PROCESS).

STEP 3: The parents or the school may request an administrative review in the district with the Administrative Admissions and Release Committee (AARC).

-The district-wide committee is designed to review problems that cannot be resolved in the school-based committees.
-The parents should contact the director of special education in the school district (the committee chairperson) to ask for the review.
-The parents may also tell the superintendent of the district (a committee member) that there is a problem to be discussed.
-If possible, the problem is solved by the AARC (END OF PROCESS).
-NOTE: The parents may omit this step and directly ask for a hearing outside the school district.

IMPARTIAL DUE PROCESS HEARING

AND APPEAL CHECKLIST

OUTSIDE THE SCHOOL DISTRICT

STEP 1: The parents or the district may request an impartial hearing conducted by a hearing officer.

-The hearing officer is trained by the Bureau of Education for Exceptional Children, Kentucky Department of Education, and is not associated with the school district.
-The parents and the school have specific rights related to the hearing.
-The parents must submit their request for a hearing in writing to:

Assistant Superintendent
Bureau of Education for Exceptional Children
8th Floor, Capital Plaza Tower
Frankfort, Kentucky 40601

-The hearing officer makes a decision on the case.
-If possible, the problem is resolved by the impartial hearing (END OF PROCESS).

STEP 2: The parents or the district may appeal the hearing decision to the Exceptional Children Appeals Board.

-This Board is the final review point within the educational system.
-The parents must submit their appeal in writing to:

Exceptional Children Appeals Board
Kentucky Department of Education
Frankfort, Kentucky 40601

-If possible, the problem is resolved by the Appeals Board (END OF PROCESS).

STEP 3: The parents may bring a civil action suit.

APPENDIX C

GLOSSARY OF TERMS YOU SHOULD KNOW

We realize that there seems to be more and more words, educational terms, and initials that parents must know so they can communicate with schools and other agencies. This glossary of often-used terms has been created to help you in helping to educate your handicapped child.

Admissions and Release Committee -- The group of people who review evaluation information, develop an individual education program (IEP) and determine appropriate placement for children referred as possible candidates for special education and related services.

A. School-Based Admissions and Release Committee (SBARC) - A committee in the school responsible for serving students currently enrolled in a particular local school in the local school district. Each local school should have a SBARC. This committee usually consists of the principal as chairperson, referring teacher, special education teacher, parent(s) of child, persons responsible for providing evaluation information, and other consulting members as needed, including persons that the parents or district choose.

B. Administrative Admissions and Release Committee (AARC) - A committee that is responsible for making decisions about children referred for special education from outside the school district. This committee also reviews those cases that a SBARC can't make decisions about or when there is disagreement with the SBARC recommendations. The committee usually has the Director of Special Education as chairperson, the school district superintendent or designee, principal and teacher of the referred child, instructional supervisor, parent(s) of referred child, persons providing evaluation information, and other people that the school or parents want.

BEEC -- Bureau of Education for Exceptional Children, Kentucky Department of Education, Frankfort, Kentucky. The state government agency responsible for special education in Kentucky.

Child Find -- Activities that the state and local school districts do to find handicapped children who are not receiving an education or who are not receiving an appropriate education.

Confidentiality -- A set of procedures (rules) to protect the privacy of school records. These procedures relate to collecting, keeping, showing, using and/or destroying any personally identifiable information on any child in the local school district.

Consent Agreement -- A court order signed in Kentucky in 1974 on behalf of exceptional children. The Consent Agreement established, for compulsory school-age exceptional children, the right to appropriate educational opportunities according to their needs and capabilities.

Due Process -- A series of steps which assures the right of the parent and child to be fully informed and included in any decisions which affect the child's education. In this case, Due Process is a legal term which means that rules, steps, or procedures have been made to protect the rights of handicapped children and their parents. These steps are supposed to make sure that parents and their children get all the information they need and can take part in any decisions about the child's education.

Evaluation -- Procedures used to find out whether a child is handicapped and to find out the kinds of special education and related services that the child needs. The term means those procedures used with an individual child and does not mean the routine tests given to or procedures used with all children in a school, grade or class (for example, weekly spelling tests).

Free Appropriate Public Education -- Under Public Law 94-142, the term means special education and related services at the preschool, elementary or secondary level, in accordance with the individual education program for an exceptional child. These services must be provided at no cost to the parents and provided in a way which meets state and federal requirements.

Handicapped Children -- As defined by Public Law 94-142, "Handicapped Children" means those children evaluated as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services. Kentucky uses the term "exceptional children" to refer to handicapped children.

Identification -- Steps taken to refer a child to find out if special education is needed. (See also Evaluation)

Impartial Hearing -- A due process procedure for resolving differences between two parties (usually the parent(s) and the local school district). This procedure applies to any proposal or refusal to initiate or change the identification, evaluation, or educational placement or the provision of a free appropriate public education for a handicapped child. A hearing may be requested by the parents or the school system involved.

Individual Education Plan (IEP) -- A written statement for each handicapped child developed by the Admissions and Release Committee which includes:

- your child's present level of educational performance (what your child can and cannot do),
- goals and objectives for your child for the year (what your child is going to be working on during the coming year),
- the specific special education and related services to be provided to your child to meet those goals and objectives (what the school is going to do to make sure your child gets what he or she needs),
- when services will start and how long they will last,
- the extent to which your child will participate in the regular education program (how much your child will be in school classes and activities with children who are not handicapped),

- appropriate ways to check the progress your child makes on the goals and objectives (how the school will find out if your child is or is not doing okay and how this will be measured),

- a schedule for deciding, at least once a year, whether the goals and objectives are being met (when the school is going to check on your child's progress).

KAR -- Kentucky Administrative Regulations (e.g. 707 KAR 1:051) -- when approved by the State Board of Education, these have the weight of the law. The KAR's give rules for carrying out the law.

KRS -- Kentucky Revised Statute (e.g. KRS 157.200) -- Kentucky Law.

Least Restrictive Environment -- As defined by P.L. 94-142, the state and local school districts must demonstrate that they have established:

> "procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

This means that as much as possible, a handicapped child must be educated with children who are not handicapped. At the same time the handicapped child must receive the services he or she needs. Many times, a handicapped child can be in the regular education program and be getting some special services or equipment part or all of the time. Sometimes a special class or separate school may be the best place for a handicapped child to get an education.

Native Language -- The language normally used by the child or the child's parents. This may include foreign languages, sign language, etc.

Non-biased Evaluation -- See non-discriminatory testing

Non-discriminatory testing -- Rules to make sure that testing and evaluation materials and methods used for evaluation and placement of handicapped children will be chosen and given so they are not racially or culturally discriminatory. The materials or procedures must be used and given in the child's native language or mode of communication, unless it clearly is not feasible to do so. No one test or procedure can be used alone to determine an appropriate educational program for a child.

OSE -- Office of Special Education and Rehabilitative Services, U.S. Department of Education (formerly Bureau of Education for the Handicapped (BEH)), Washington, D.C. The federal government agency responsible for special education in the United States.

Placement -- The classroom/program chosen to meet the unique needs of a handicapped child.

Procedural Safeguards -- The methods specified by law to protect an individual's civil rights.

Public Law 94-142 -- The Education for All Handicapped Children Act, signed into law on November 28, 1975. It is designed to make sure that handicapped children have available to them a free, appropriate public education which emphasized special education and related services designed to meet their unique needs. It also is supposed to make sure that children and parents' rights are protected. It is also supposed to help states and local agencies and to assure effectiveness of efforts.

Referral -- This is the first step for finding out if a child is handicapped and needs special education. A person who thinks a child may have special needs gives a written request for services to the chairperson of an Administration and Release committee. The referral form may be obtained from any local school and then returned to that school.

Related Services -- As defined by Public Law 94-142, "related services" means transportation and such developmental, corrective, and other supportive services as are needed to help a handicapped child benefit from special education. It includes speech therapy and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. It also includes school health services, social work services in schools, and parent counseling and training.

Section 504 -- Section 504 is a basic civil rights provision that deals with ending discrimination against America's handicapped citizens. Section 504 is a part of Public Law 93-112, the Rehabilitation Act Amendments of 1973. Though Section 504 is not long in words, its meaning is very important. The law reads:

> No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (Section 504:84A).

Special Education -- As defined in Public Law 94-142, the term "special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child. This may include classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

Surrogate Parent -- A person who is assigned to act as if he/she is the parent of a handicapped child in regard to the child's educational program to make sure that the rights of the child are protected. This happens in cases where the child's parents or guardian are not known or are unavailable, or when the child is a ward of the state. Surrogate parents are appointed and trained by the State Department of Education. They have no conflict of interest, are qualified to represent the child and are not employed by any public agency involved in the education or care of the child.

MATERIALS FOR PARENTS

The Bureau of Education for Exceptional Children, Kentucky Department of Education has developed several types of materials to help parents of handicapped children. The purpose of these materials is to help parents understand their rights under state and federal law and to help them use services available to handicapped children.

This booklet is part of a series of five parent booklets. The five booklets are:

A Parent's Guide to Your Child's Education.

A Parent's Guide to Your Child's Records

A Parent's Guide to the Specialists Who Help Your Child.

A Parent's Guide to Developing Community Support for the Education of Handicapped Children

A Parent's Guide to Community Resources for Your Handicapped Child

Many other materials are also available. These include:

Materials for use in parent training -- These contain the materials needed for presenting two or more sessions on different topics of interest to parents of handicapped children. The materials include a list of activities, suggested agendas and time frames for use of the materials, sample scripts outlining the content and directions for activities, master for transparencies and handouts, and bibliographic information for supplementary materials, references and resources.

A Parent's Guide to Public Education for the Handicapped -- This brochure (16 p.) briefly outlines the major provisions of Public Law 94-142.

Print and audio-visual materials -- Information is available on the commercial publishers who have materials for use with parents and how to obtain these materials.

State and federal laws and regulations -- Copies of the laws and regulations that affect the education of handicapped children are available.

For more information about these materials, contact:

Bureau of Education for Exceptional Children
Capital Plaza Tower, 8th Floor
Frankfort, Kentucky 40601